



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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TTY 711 or 800-833-6388 (for the speech or hearing impaired)

REGISTERED MAIL
RR #RB252972041 US

October 4, 2005

Charles Lewsader
Lewsader Construction LLC
1119 E. Front Street
Lynden, WA 98264

Dear Mr. Lewsader:

RE: **Order No. 2743:** Administrative Order West Baker Place Residential Development
resulting in placement of fill in 0.23 acres of isolated wetlands in Whatcom County.

The request for an administrative order for proposed work in wetlands in Whatcom County has been reviewed. The State of Washington has determined that the proposed work, as conditioned by the enclosed Order, will comply with applicable provisions of Chapter 90.48 RCW and other appropriate requirements of State law.

This approval is subject to the conditions contained in the enclosed Order. If you have any questions, please contact Susan Meyer. Written comments can be sent to Susan Meyer at the Department of Ecology, 3190-160th Ave SE, Bellevue WA 98008 or by e-mail at sune461@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described in the Order.

Sincerely,

Brenden McFarland
Section Manager
Shorelands and Environmental Assistance Program

cc: Renee LaCroix, City of Bellingham Public Works



DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE REQUEST BY)
Lewsader Construction LLC)
FOR AN ADMINISTRATIVE ORDER TO) ORDER NO. DE 2743
CONDUCT WORK IN AN ISOLATED WETLAND)

To: Charles Lewsader
Lewsader Construction LLC
1119 E. Front Street
Lynden, WA 98264

This is an Administrative Order requiring Lewsader Construction LLC to comply with Chapter 90.48 RCW and the rules and regulations of the Department of Ecology (Ecology) by taking certain actions which are described below. RCW 90.48.120(1) authorizes Ecology to issue Administrative Orders requiring compliance whenever it determines that a person has violated or creates a substantial potential to violate any provision of Chapter 90.48 RCW.

On October 22, 2003, Lewsader Construction LLC submitted a request to impact 0.23 acres of isolated wetlands to develop approximately 16 acres for residential development consisting of 71 lot single family subdivision and 4 multifamily tracts in Whatcom county.

For purposes of this Order, the term "Applicant" shall mean Lewsader Construction LLC and its agents, assigns, and contractors.

In view of the foregoing and in accordance with RCW 90.48.120(1):

IT IS ORDERED that Lewsader Construction LLC shall comply with the following:

1. Lewsader construction LLC shall construct and operate the project in a manner consistent with the project description contained in the City of Bellingham Wetland Stream Permit issued August 14,2003 and the contract drawings titled West Baker Place Subdivision EX-69 and dated June 6,2003 or as otherwise approved by Ecology.
2. LewsaderConstruction shall provide wetland mitigation in the form of in-lieu-fees to the City of Bellingham, Department of Public Works and provide documentation that the in-lieu-fee transaction was completed.
3. Lewsader Construction LLC shall provide access to the project site upon request by Ecology.

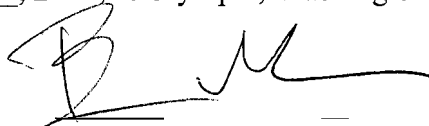
4. The following additional conditions are required by this approval to be provided by the City of Bellingham, Department of Public Works:
 - a) Once a final site design has been developed, a set of performance standards shall be developed to reflect the goals and objectives of the project. These performance standards shall be approved by Ecology prior to site construction.
 - b) "As-Built" Report: **An** "as-built" report and drawing documenting the final design of the restoration areas shall be prepared when site construction and all planting is completed. The "as-built" documents shall include the following:
 - Final site topography;
 - Photographs of the area taken from permanent reference points;
 - The installed planting scheme showing quantities, densities, sizes, and approximate locations of plants, as well as plant sources and the time of planting;
 - Types of habitat features (e.g., snags, large woody debris) and their locations;
 - Locations of permanent vegetation transects, sampling and monitoring sites; and,
 - **An** analysis of any changes to the restoration plan that occurred during construction.
 - c) Monitoring and Contingency Plan: Monitoring the restoration site shall be conducted for a 10-year period, in years 1, 2, 3, 5, 7, and 10 after plant installation. Monitoring shall be conducted by Washington Conservation Corps crews or a similar organization and monitoring reports written by the crews shall be submitted to the attention of Susan Meyer by December 31 for each monitoring year. If monitoring results indicate that performance standards are not being met and the project plantings do not appear to be thriving, contingency measures must be implemented, and additional mitigation and monitoring may be required. An on-site meeting between the City and Ecology may be warranted to determine appropriate contingency measures.
5. This Order does not exempt and is provisional upon compliance with other statutes and codes administered by federal, state, and local agencies.
6. Copies of this Order shall be kept on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and foremen, and state and local government inspectors.

7. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines further actions are necessary to implement the water quality laws of the state. Further, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified (*e.g.*, violations of water quality standards, downstream erosion, etc.), or if additional conditions are necessary to further protect the public interest.

Failure to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce the terms of this Order.

Any person aggrieved by Order 2743 may obtain review thereof by appeal. Pursuant to ch. 43.21B, RCW, a person can appeal this order to the Pollution Control Hearings Board within 30 days of the date of receipt of this Order. Any such appeal must be sent to the Washington Pollution Control Hearings Board, PO Box 40903, Olympia, WA 98504-0903. Concurrently, a copy of the appeal must be sent to the Department of Ecology, Shorelands and Environmental Assistance Program, Attn: Loree' Randall, PO Box 47600, Olympia, WA 98504-7600. These procedures are consistent with the provisions of Chapter 43.21B RCW and the rules and regulations adopted thereunder.

DATED this 4th day of Oct, 2005, at Olympia, Washington.



Brenden McFarland, Section Manager
Shorelands and Environmental Assistance Program
State of Washington